



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,703	09/25/2003	John D. Irish	ROC920030090US1	6165
30206 7590 12/16/2008 IBM CORPORATION ROCHESTER IP LAW DEPT. 917 3605 HIGHWAY 52 NORTH ROCHESTER, MN 55901-7829				
EXAMINER ROJAS, MEDYS				
ART UNIT		PAPER NUMBER		
2185				
MAIL DATE		DELIVERY MODE		
12/16/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/670,703

**Applicant(s)**

IRISH ET AL.

**Examiner**

MIDYS ROJAS

**Art Unit**

2185

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 02 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Sanjiv Shah/  
Supervisory Patent Examiner, Art Unit 2185

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments have been considered but are not persuasive.

Applicant argues that the references relied upon do not teach that the size of the dynamically allocated size is of "the size required by the set of data".

The examiner does not agree.

The limitations that applicant argues are not present in the claim ("the size required by the set of data"). Instead, the claim states that the "dynamically allocated size including one or more group entries of the size required by the portion of the set of data". This limitation is quite different than what applicant argues. The limitation cited above tells us that the dynamically allocated section is of a size that includes one or more entries of the size of the required portion. Therefore, the dynamically allocated section is bigger than the size of the required portion. This is met by Bonola where the sub region is partitioned until it reaches a size of less than twice the memory required for the application.

Applicant argues that the references relied upon do not teach dynamic allocation size being the smallest sized group entry necessary to store the portion of the set of data and that to conclude otherwise would be to completely remove any patentable weight from the terms "smallest" and "necessary". Furthermore, Applicant argues that Bonola's process merely seeks to reduce the size of the remaining half to a threshold size.

The examiner does not agree.

The examiner maintains that in interpreting the limitation "smallest sized group entry necessary to store the portion of the set of data", the examiner must consider that this "smallest size" that is "necessary" is a determination that is being made by the system that is performing the method of the invention. Based on this rationale, the examiner maintains that for the purposes of the invention of Bonola, the smallest size needed is equivalent to a heap sub region that is less than twice the memory required for the application. The system of Bonola continues to partition the sub region until it reaches this smallest required size, wherein this smallest required size is the smallest size that this system considers to be necessary. Therefore, the size of the yielded sub region is representative of the smallest sized group entry necessary to store the alleged portion of the alleged set of data. This is interpretation is further supported by the previous claim limitation "dynamically allocated size including one or more group entries of the size required by the portion of the set of data" (as explained above), since this limitation supports that the dynamically allocated section is of a size that includes one or more entries of the size of the required portion. Therefore, the dynamically allocated section is bigger than the size of the required portion. This is met by Bonola where the sub region is partitioned until it reaches a size of less than twice the memory required for the application (therefore, the size includes one or more sections of the size of the required portion; where one or more sections may be, for example, one and a half sections).